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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CHRISTOPHER A. CARRASCO,

Petitioner,

C 07-5666 MMC (PR)

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

ROBERT A. HOREL, Warden,

Respondent.

Respondent provides this answer to the order to show cause why the petition for writ of habeas corpus should not be granted:

I.

CUSTODY

Petitioner Christopher Carrasco is lawfully in the custody of Robert A. Horel, Warden of Pelican Bay State Prison, as a result of a judgment of conviction in Santa Clara County Superior Court, case number CC091842. A jury found petitioner guilty of assault by means of force likely to produce great bodily injury, battery with serious bodily injury, and the use of methamphetamine, and found true the allegation that the assault and battery were committed for the benefit of a criminal

1 street gang. Petitioner admitted that he had three prior strike convictions, one prior serious felony
 2 conviction, and three prior prison terms. The trial court sentenced petitioner to 33 years to life in
 3 prison.

4 **II.**

5 **GENERAL AND SPECIFIC DENIALS**

6 Respondent denies that the state court rulings were based on an unreasonable
 7 determination of fact or were contrary to, or involved an unreasonable application of, clearly
 8 established United States Supreme Court precedent. Respondent specifically denies that: (1) the
 9 prosecutor committed misconduct; (2) trial counsel was ineffective; (3) the trial court's instructions
 10 on aiding and abetting were erroneous; and (4) the trial court committed sentencing error.

11 **III.**

12 **PROCEDURAL DEFENSES**

13 Petitioner exhausted his claims in state court. The petition is timely within the meaning
 14 of 28 U.S.C. § 2244.

15 **IV.**

16 **LODGED DOCUMENTS**

17 Respondent has lodged concurrently with this answer the following exhibits: (1) State
 18 Court Clerk's Transcript (3 volumes); (2) State Court Reporter's Transcript (6 volumes); (3) Opinion
 19 of the California Court of Appeal; (4) Petition for Review filed by petitioner in California Supreme
 20 Court; (5) Petition for Review filed by respondent in California Supreme Court; (6) Order of
 21 California Supreme Court denying petitioner's petition for review and granting respondent's petition
 22 for review; (7) Petition for Writ of Habeas Corpus filed in California Supreme Court; (8) Order of
 23 California Supreme Court denying petition for writ of habeas corpus; (9) Order of California
 24 Supreme Court remanding review case back to the Court of Appeal; and, (10) Opinion of the
 25 California Court of Appeal on remand.

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1 Dated: August 28, 2008

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
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Chief Assistant Attorney General

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9
10 /s/ Michele J. Swanson
11 MICHELE J. SWANSON
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